

1887-051 Chancery Causes: Allen Sargent for & vs. Adm. of William Turner, jr. &c "  
Lee Co.

Hughes, Kelly, Myers, Graham, Myers

CA-Estate Dispute  
T-Property

To the Hon. John A. Kelly Judge of the Circuit  
Court of Lee County Virginia:

Humbly complaining your Orator Allen Sargent  
and your Oratrix Emily Sargent his wife, who sue for  
for the benefit of George W. Hughes would respectfully  
represent that on the 21st day of November 1874.  
One William Turner Jr. now deceased executed his  
certain promissory note in writing to the female plaintiff  
Emily Sargent wife of your Orator Allen Sargent, by  
which said promissory writing the said William Turner  
Jr. promised and bound himself one day after the date  
thereof to pay to the said Emily Sargent Sixty dollars  
at ten per cent interest for value received of her, and  
the said promissory writing is herewith filed as part hereof  
marked (A). On the 29th day of August 1882 there  
was paid to the said Emily Sargent by the said W. Turner Jr.,  
the sum of Ten dollars, which is credited thereon, and  
the balance of said note is now due and owing the said  
Sargent wife for the benefit of said Hughes, no other or further  
part thereof having ever been paid, either to the plaintiff, or to  
said Hughes;

Complainants state that said writing was executed  
in the State of Kentucky and is therefore a contract  
of that state and is governed & controlled by the law thereof.

Complainants further state that some time before the  
19th day of July 1875 the said William Turner Jr. departed  
this life intestate in said county of Lee the owner of valuable  
real estate, situated on the north fork of Powell's river  
in said county and a small amount of personal property.



And on the said 19<sup>th</sup> day of July 1874 the Vincent  
H. Kelly was appointed by the County Court of Lee  
County admr. of the estate of said Wm. Turner died  
when John C. Hayes and Madison K. Graham became  
the security of said V. H. Kelly in the sum of \$1,000.00  
for the due and faithful discharge of the duties of his  
office of admr. aforesaid all which is shown by the  
copy of the order of said county court herewith filed <sup>(13)</sup> marked

Complainants further state that said V. H. Kelly as such  
admr. took charge of the personal estate of said Turner  
sold the same and has realized the money therefor  
and has failed and neglected and refused to account  
for the same. He has failed to return to the proper  
officer either an appraisement of the personal estate of  
of said Turner or a sale bill of the property sold by  
him as such, or an inventory of the cash in hand  
or evidences of debts due said Turner in his lifetime  
so that complainants cannot state the value of said  
personal estate that went into said Kelly's hands as such  
admr. but complainants allege that a large amount of  
personal estate to wit the sum of \$                      went into  
his hands as such admr. And complainants further  
state that said V. H. Kelly as such admr. has made no  
settlement of his account so as to disclose and show how  
he stands with reference to <sup>the</sup> assets in his hands belonging  
to said estate. Complainants further state that they  
have applied to said V. H. Kelly as admr. aforesaid for  
the money due on said promissory writing but that



failed and refused to pay the same upon the ground that he had paid out all the estate that came into his hands as such adw.

Complainants state that said Wm. Turner at his death left a widow Elizabeth Ben Turner surviving him & the following 10 children his heirs at law vizt Mary J. Turner who intermarried with her cousin Chudwell Turner, Susan Turner who married George Grider, Elizabeth Turner who married Levi Kapien, Ephraim Turner, James Turner, Wm Turner, William H. Turner, Emily Turner, Lavina Turner & Eliza Turner, the last 4 of whom are infants under the age of 21 years.

Complainants further state that said Wm. Turner at his death owned a valuable tract of land lying on the North fork of Powell's River containing 400 or 500 acres and is worth from \$4000.00 to \$5000.00 at the least, which descended to his heirs at law above named, subject to the dower of said widow therein and the said dower therein has been assigned the widow as complainants are informed and believe.

Complainants further state that said Levi Kapien and Elizabeth his wife, Jas Turner & William Turner have sold their undivided interest in said real estate to the said Chudwell Turner, and that George Grider and Susan his wife, have sold their interest in said real estate to the said Ephraim Turner.

Complainants are advised that they are entitled to have the account of said O.H. Kelly as such adw. settled by a commissioner of the court, so as to ascertain whether



or not, there are sufficient assets in his hands to pay their said claim and if so to leave the same or a sufficient amount applied thereto. And should it turn out that the said admr. has fully administered the assets properly charged to him, then complainants are advised that their said claim is a legal charge against said heirs in account of assets descended from their ancestor the said W. Turner. And to obtain payment of their said claim in one or other of these Methods is the object of this Bill.

The premises considered Complainants pray that said Vincent H. Kelly admr. of W. Turner's decd. & John P. Myers and M. K. Gocham his Executors and Charles Will Turner & Mary J. Turner his wife, Ephraim Turner ~~W. Turner~~ Minerva L. Turner, Emily Turner, Lavina Turner, and Eliza Turner be made defendants to this Bill and be required to answer the same fully and truly on Oath; that a guardian ad litem be appointed for said Minerva Turner, Emily Turner, Lavina Turner and Eliza Turner to defend their interest in this cause, and upon a hearing of the cause a decree be entered in favor of complainants for the amount of their said claim. That an account of V. H. Kelly as admr. aforesaid be taken and if a sufficiency of assets be found in his hands to pay said claim, that he and his said Executors be decreed to pay the same, and if it shall appear that said admr. has fully administered the assets which came <sup>into</sup> his hands as such, then that said heirs be decreed to pay said claim on account of assets descended to them. And complainants pray for all general relief May



the Commonwealth writ of Habeas Corpus directed to

Henry J. Morgan for benefits.



6.18  
 S 4.50  
 A 15.00.  
 Cole .25  


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 \$25.93

6.18  
 4.0  


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 \$6.88

Allen Sargent wife for

as. } Bill

T. H. Kelly admt tal  
 1886 July Bill filed  
 Spd. End. & D. N.

Aug. D. N. Confd  
 and continued by  
 direction of plffs atty.

" Sept Oct. & Nov. Contd  
 1887 May. Feby Contd

" Wch dismissed by  
 Plaintiff.



The joint answer ~~of~~ And demurrers of C.B. Turner and Sprague Turner to a Bill of Complaint filed in this court against them and others by Allen Sargent & Emily his wife for the benefit of E. H. Hughes.

For demurrer thereto, your respondents say the said bill of complaint is not sufficient in law, but if they should be mistaken in this for answer thereto as much thereof as they are advised that it is material for them to answer, answers and says: that it is true ~~that~~ Turner departed this life in the year of 1885; that V. H. Kelly by the County Court was granted letters of administration of the estate of said ~~Wm~~ Turner; that your respondents are informed that the said ~~Wm~~ Turner died in his lifetime executed the promissory note in said bill mentioned; That it was executed in Kentucky; but from that fact, your respondents are informed it does not necessarily become a contract of Kentucky to be performed in said state. And fact, your respondents are informed and aver that said ~~Wm~~ Turner Jr. was at the time of the making said promissory note



3 Min. 130+  
131

a resident and citizen of Virginia  
and that said note evidencing said  
contract was to be performed in Va.

Now with these premises your  
respondents ~~pled~~ and aver that if  
said Complainants ever had any cause  
of action or suit against their defendants  
for or concerning any of the matters in  
the said bill mentioned ~~which~~ ~~there~~ such  
~~action~~ or suit did not accrue within  
five years next before the filing of  
the said bill or before <sup>suing</sup> out or serving  
process against them to appear to  
and answer to said bill, nor did these  
Defts. at any time within five years next  
before the institution of this suit or  
for said premises or agree in writing  
to come to any account for or to make  
satisfaction or to pay any sums or sums  
of money for or by reason of said mat-  
ters in said bill charged.

~~It is~~ ~~therefore~~ ~~the~~ ~~said~~ ~~defendants~~  
pray judgment of this court whether they  
should be compelled to make any further  
answer to said bill, and pray to be hence dis-  
missed with their reasonable costs and  
charges in this behalf expended //

Duncan & Cunningham  
P. J.



Virginia

County of Lee to wit

This day personally  
appeared before me V. H. Kelly  
Commissioner in Chancery  
of B. & F. Turner for the county and  
State, whose answer is above written  
and made oath that the statements con-  
tained in said answer ~~is~~ so far as made  
of their own knowledge are true; and  
so far as made from the knowledge and  
information derived from others they  
believe to be true. Given under  
my hand this the 20<sup>th</sup> day of November  
1886

V. H. Kelly Comr

Sworn To Before me

By Ephram Turner Nov 22<sup>nd</sup> 1886

V. H. Kelly Comr



C. B. & E. Turner

add Answer

Allen Dargun wife for

---



Allen Sargent wife for &c.

vs.

Peff

} In why  
Defts

This cause came on to be heard on the bill of the plaintiffs  
and exhibits therewith, and the demurrer of the depts <sup>pleas & answer</sup> thereto  
and was argued by counsel. And thereupon on motion  
of the plaintiffs. ~~On consideration of the said~~  
~~bill & exhibits the same is sustained and leave is granted to~~  
~~the plaintiffs to amend their bill & the cause is~~ <sup>there</sup> ~~continued~~ remanded  
to rule.



Allen Sargent wife for

vs. } Decm No 1

W. H. Kelly admors  
Entd 587.

J. A. Wyatt cc

Enter this  
Nov. 27 1886

J. A. L.



Allen Sargent wife for.      Peffs.  
vs.      } In Chy  
D. H. Kelly admr. & al      Defts

This cause came on to be heard on the bill of the Peffs taken for confessed by the adult defts. and the answer of the infant defts by John M. Morgan their guardian ad litem and was argued by counsel. On consideration whereof it appears necessary to have an account taken it therefore ordered that Comr. John A. S. Hyatt take and state the account of D. H. Kelly admr. of the Trust for decd. and in doing so will charge him with all sums properly chargeable to him as such or will give him all proper credits for disbursement made by him, and will show the amount yet in his hands if any yet unaccounted for. He will report any matter deemed pertinent & the cause is continued



Allen Sargent wife son

as } Dec 10 p

W H Kelly adm tal

Enter this



orders of Alan Vincent Court

May Ten 6 day Saturday 5-10 day of June 1886

Wm Turner Jr Admin

vs

ordered that  
Wm Turner Jr heirs } Allen Sergeant  
be allowed to withdraw his note  
here to fore filed in this suit out of  
said suit

copy attest

W B Allen cee



86-  
4.7



83652.71

for Judgt of said

116.81

to May 2nd 1881.

29.00

rent

8.44

etc.

199.20

for Judgt of said

77. for \$166.47. Subject

31st 1880. 4828.39

ate

40.14

1881

80

4.89

to.

45.80

Judgt of said

Subject to credits 483.75

2nd 1881.

57.92



of J. B. Olmstead  
with Int. subject

1876, Bal Br last date 128.33

May 2nd 1881.

57.19

7.60

193.12

of said Court

115.87

May 2nd 1881.

21.23

7.96

144.71

sts.

of Judgt of said Court

for

167.55

to May 2nd 1881.

35.75

mont

7.96

crs



\$1749.11

A. J. Ely Masters of the  
deed, for Judgt of said

Judgt on H. Land for 30/78 104.54

May 2<sup>d</sup> 1881.

29.35

in hand

3.27

May 2<sup>d</sup> 1881.

130.16

Judgt of circuit.

Dec 6<sup>th</sup> 1877 for

449.72

2<sup>d</sup> 1881.

103.08

7.48

2<sup>d</sup> 1881.

560.48

said Court, Apr 6/78 131.00

May 2<sup>d</sup> 1881.

38.55

gment

8.08

May 2<sup>d</sup> 1881.

177.63

to Co



1881.

gt Circuit Court

Judgt on forth

77 for \$419.53

20<sup>th</sup> 1877, \$12000

ate

\$46.33

ay 2<sup>nd</sup> 1881.

29.56

the coming bond

5.09

2<sup>nd</sup> 1881.

282.00

of Circuit Court

1877. for

\$21.76

May 2<sup>nd</sup> 1881.

20.87

2.79

ay 2<sup>nd</sup> 1881.

325.62

over)

1747.11



Virginia:- At county court begun and held for Lee  
county, at the court house thereof. On  
Monday the 19<sup>th</sup> day of July 1875.

It appearing to the court that Turner  
widow of William Turner died, relin-  
quishes her right to administer on her  
said husbands estate, in favor of T. H.  
Kelly, On motion of said Kelly, who  
took the oath as such administrator,  
and together with J. P. Myers & H. K.  
Graham his securities, entered into  
and acknowledged a bond in the  
penalty of \$1000.00 conditioned  
according to law, letters of admin-  
istration on the decedents estate,  
are granted him in due form.

Attesty

Teste John R. Gibson clk.



Copy of Order of  
County Court July 12/75

(B)



Virginia Lee County Locut

In the Circuit Court in chancery.

J Hilly Ann. &c. etals.

ads

3 In Chcy.

Allen Sargent wife,

And the said Defendants by  
their Attorney come and say that the said  
supposed writing obligatory in said  
~~Bill~~ mentioned was for the  
payment of interest at a greater rate  
than is allowed by law, and this said  
Defendant is ready to verify.

Sturges & Pennington,

Attys for Defs.

And for a further plea in this behalf the  
said Defendants say that if the Complain-  
ants ever had any cause of action or suit  
against them for or concerning any of the  
matters, in said bill mentioned, which these  
defendants in no wise admit, such cause  
of action did not accrue within 5 years  
next before the filing of said bill, or before  
suing out or serving process against said  
defendants to appear to and answer said  
bill. Wherefore the said defendants pray  
judgment of this Court whether they shall  
be compelled to make any other or fur-  
ther answer to the said bill and prays



to be paid with their reasonable  
costs in this behalf expended  
Dunham & Pinnington  
Atty. for Defendants.

J. H. Kelly & Son & Co.

advs. J. H. Kelly

Wm. Ingham & Co.



The Commonwealth of Virginia  
~~To the Sheriff of the County of Lee,~~ <sup>Sergeant of the City of Bristol Va.</sup> Greeting:

WE COMMAND YOU, That you summon

*Mr James. B. J. James*  
*M M Butter. W. A Sparger, B L Dulaney*  
*and J. S Anderson. Survivors of*  
*themselves and Charles L James*

to appear at the Clerk's office of the Circuit Court of the county of Lee, at the court house on the

Monday in

*February*  
next to answer *W. S Hurst assignee of D C Sewell*  
*Comr*

upon a plea of

*sett for \$452 17* damages \$ *500 00*

And have then there this writ. WITNESS, A. B. MUNSEY, Clerk of our said court, at the court house, the

day of

*January* 189*5*, and in the 11 *9th* year of the Commonwealth.

*A copy*

*Attest*

*A B Munsey*, Clerk.  
*A B Munsey Clerk*



Copy for  
M.M. Butler

# THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU to summon

*W. H. Kelly Adm. of Wm Turner Jr.*  
*decd, John P. Myers & Madison P. Abraham his securities*  
*and Chadwell Turner & Mary Turner his wife*  
*Ephraim Turner, Mary Ann Turner, Emily Turner*  
*Louisa Turner and Eliza Turner.*

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House, on the first  
Monday *July* next, being Rule Day, to answer a Bill in Chancery exhibited in our

Court against *them*, by *Allen Sargent & Emily*  
*Sargent his wife, who sues for the*  
*benefit of George W. Hughes*

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said Court, at the  
Court House, this *29<sup>th</sup>* day of *Janu<sup>y</sup>* 188*6*, in the 1-*10* year of the Commonwealth.

*J. A. G. Hyatt* Clerk.

A COPY--TESTE:



(H. J. M.)

Allen Sargent & wife for  
George W. Hughes

vs } Spa in Chcy

W. H. Kelly Auditor  
Lo July Rules 1886

Executed by delivering  
office copies of this Spa  
to V. H. Kelly, John P. Myers,  
Madison A. Abraham,  
Chamuel Turner and  
Mary Turner his wife  
Ephraim Turner & wife  
Emily Turner, Louisa  
Turner and Eliza Turner  
July 2<sup>nd</sup> 1886.

R. D. Flarney S. L. C.